
First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons

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Adopt a Resolution Protesting Russia’s Threat to Use Nuclear Weapons and Urging the Non-use and Abolition of Nuclear Weapons by Nuclear Powers

Working paper submitted by Japan Association of Lawyers Against Nuclear Arms

Protest Russia’s Threat to Use Nuclear Weapons and Urge the Non-use and Abolition of Nuclear Weapons by Nuclear Powers

The Japan Association of Lawyers Against Nuclear Arms (JALANA) is an organization comprising lawyers and citizens whose purposes are abolishing nuclear weapons and supporting the hibakusha. JALANA is also an affiliate of the International Association of Lawyers Against Nuclear Arms. On this occasion of the First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons, we address this request to the participating states for reasons given as follows.

1. On February 24 the government of the Russian Federation (below: Russia) launched a “special military operation” against Ukraine. We believe that this use of force is an “act of aggression” which violates the UN Charter, and that attacks against civilians and non-military facilities correspond to “war crimes.” We emphatically censure this act of aggression and these war crimes, and demand their immediate cessation.

2. Of special note to us is Russia’s threat to use nuclear weapons. President Vladimir Putin, in his speech on February 24, stated, “[T]oday’s Russia remains one of the most powerful nuclear states... there should be no doubt for anyone that any potential aggressor will face defeat and ominous consequences should it directly attack our country.” Following this on February 27, he ordered nuclear deterrent forces to go on high alert. On April 27 he emphasized, “If someone decides to intervene in current events from the outside and creates unacceptable strategic threats for Russia, then they must know that our response, our retaliatory strikes, will be lightning-fast, quick. We have all the tools for this... And we won't brag, we'll use them if needed.” This is a threat to use nuclear weapons, and it is a threat not only to Ukraine and NATO countries, but also to all of humanity because the use of nuclear weapons will affect the entire planet.

3. In June 2020 Russia released its “Foundations of State Policy of the Russian Federation in the Area of Nuclear Deterrence.” According to this “strategic planning document,” Russian retaliation with nuclear weapons is envisioned even if Russia is attacked with non-nuclear weapons. Russia has 4,630 nuclear warheads, of which 1,625 are actively deployed. (SIPRI, 2021). Including nuclear warheads and the means to transport them, Russia has plenty of nuclear capability. Russia’s threat is certainly not a bluff because it is possible for Russia to visit “defeat and ominous consequences” upon international community.

4. The preamble of the Nuclear Non-Proliferation Treaty, to which Russia is also a party, cites “the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war.” Although the International Court of Justice avoids making a judgment on a crisis which is an existential threat to a nation, it ruled that the threat or use of nuclear weapons would generally be contrary to the rules of international law. It is likely that no one would deem the existence of the Russian state to be threatened. The 2010 NPT Review Conference Final Document states, “The Conference expresses its deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons and reaffirms the need for all States at all times to comply with applicable international law, including international humanitarian law.” Russia too agreed. This January, President Putin signed a statement by the heads of state of nuclear powers, which stated, “We affirm that a nuclear war cannot be won and must never be fought.” Russia has ignored the NPT, to which it is a party, and the NPT Review Conference agreement, as well as the ICJ advisory opinion, and has gone back on the declaration by President Putin himself, thereby threatening all humanity. Even if the Treaty on the Prohibition of Nuclear Weapons (TPNW) is not applicable to the threat posed by Russian use of nuclear weapons, it would be an unacceptable act from legal, political, and humanitarian standpoints.

5. Therefore, at this First Meeting of States Parties, we request the adoption of a resolution which strongly protests this threat of nuclear weapon use by Russia, and which urges to Russia the non-use and abandonment of its nuclear weapons.

6. What we most fear is the use of nuclear weapons because that would cause “catastrophic humanitarian consequences” for all humanity. It is possible that nuclear weapons would be used not intentionally, but because of a miscalculation or accident. That the Earth has not yet been blown up is simply because of dumb luck. We are forced to live beneath the sword of Damocles.

7. The TPNW aims to avoid the “catastrophic humanitarian consequences” that would result from all use of nuclear weapons. Those consequences would be, for example, those which “cannot be adequately addressed, transcend national borders, pose grave implications for human survival, the environment, socioeconomic development, the global economy, food security and the health of current and future generations.” This means the same as what the NPT calls “the devastation that would be visited upon all mankind.” The TPNW complements the NPT by observing the “imperatives for nuclear disarmament and the urgency of achieving and maintaining a nuclear-weapon-free world.”

8. We take this observation seriously. But the nuclear powers and nuclear-umbrella states oppose this treaty. Their reasoning is that banning nuclear weapons jeopardizes their countries’ security, and by extension their citizens’ lives and assets. We reject the doctrine of nuclear deterrence, which sees nuclear weapons as “tools for international politics” and “tools for securing peace,” and seeks thereby to ensure the security of one’s country. It is evident that the only thorough way to avoid the devastation that would result from using nuclear weapons is — as the TPNW says — the “total elimination of nuclear weapons.”

9. We not only censure Russia's threat to use nuclear weapons, but also demand that the government of the United States, which is a major nuclear-weapon state like Russia, and those of NPT member states change their nuclear weapon-dependent policies, and soon begin and conclude negotiations on measures aimed at the "cessation of the nuclear arms race" and "nuclear disarmament," as well as on a treaty for "general and complete disarmament." This is because these are the manifest obligations of NPT member states, and also because *pacta sunt servanda* (agreements must be kept) is a major principle of international law. We also point out that even nuclear powers which are not NPT member states are obligated to uphold the principles of international humanitarian law.

10. The hibakusha assert that "nuclear weapons and humanity cannot coexist," and the TPNW was enacted with the "unacceptable suffering of and harm" caused to the hibakusha in mind. That the use of nuclear weapons would bring devastation to all mankind is an axiom of international community under the NPT regime. The TPNW complements the NPT regime, bans the development, testing, possession, deployment, transfer, receipt, use, threatening to use, and other actions involving nuclear weapons, and its purpose is to abolish nuclear weapons. Further, Article 12 of the TPNW calls for universality: "Each State Party shall encourage States not party to this Treaty to sign, ratify, accept, approve or accede to the Treaty, with the goal of universal adherence of all States to the Treaty."

11. Currently Russia threatens to use nuclear weapons, while other nuclear powers and nuclear-umbrella states likewise turn their backs on the TPNW. They have adopted nuclear weapon-dependent policies based on nuclear deterrence doctrine, which is known as "the most dangerous collective fallacy." A group of scientists has issued a dire warning that we are 100 seconds from "Doomsday." Never before has there been such a pressing need to totally ban and abolish nuclear weapons.

12. We ask all participants in the First Meeting of States Parties to pass a resolution urging the non-use and abolition of nuclear weapons to all nuclear powers.
